

ORDINANCE NO. NS-545

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CARLSBAD, CALIFORNIA, REPEALING TITLE 11, CHAPTER
11.12 AND REENACTING CHAPTER 11.12 OF THE
CARLSBAD MUNICIPAL CODE RELATING TO TREES AND
SHRUBS

WHEREAS, the City Council recognizes that trees contribute greatly to the health, safety, and general welfare to all of Carlsbad citizens and that the preservation and proper maintenance of trees is a matter of citywide concern; and

WHEREAS, the City Council further recognizes that trees and shrubs improve the environment and provide great aesthetic benefits by moderating the climate; releasing oxygen; acting as filters against airborne pollutants; providing noise abatement; privacy screening; erosion control and harboring wildlife in an urban setting; and

WHEREAS, the City Council has the authority to determine all aspects of the preservation and proper maintenance of public trees and shrubs; and

WHEREAS, the City Council finds and determines that it is necessary to enact regulations prohibiting unnecessary damage to, removal of, or destruction of public trees and shrubs.

NOW, THEREFORE, the City Council of the City of Carlsbad does ordain as follows:

SECTION 1. That existing Title 11, Chapter 11.12 of the Carlsbad Municipal Code is repealed.

SECTION 2. That Title 11, Chapter 11.12 of the Carlsbad Municipal Code is added to read as follows:

"Chapter 11.12

TREES AND SHRUBS

Sections:

11.12.010	Purpose and intent
11.12.020	Definitions
11.12.030	Jurisdiction of public works department

1	11.12.040	Master tree list
	11.12.050	Street tree planting and maintenance procedures
2	11.12.060	Approval prior to planting
	11.12.070	Street tree maintenance
3	11.12.080	Protection of trees
	11.12.090	Tree removal
4	11.12.100	Tree replacement
	11.12.110	Overhanging trees
5	11.12.120	Uniform street planting map
	11.12.130	Community forest management plan
6	11.12.140	Heritage trees
	11.12.150	Appeals
7	11.12.160	Violation
8		

9 11.12.010 Purpose and intent.

10 The public interest and welfare require that the city establish, adopt and maintain a comprehensive program for installing, maintaining and preserving trees within the city.

11 This chapter establishes policies, regulations and specifications necessary to govern installation, maintenance and preservation of trees to beautify the city, to purify the air, to provide shade and wind protection, and to preserve trees with historic or unusual value.

12 It is the policy of the city to line its streets with trees and to conduct a consistent

13
14 policy to provide for planting trees in all areas of the city and for selecting appropriate species to achieve as much beauty and economy as possible. It is also the policy of the city to protect and preserve all desirable trees that are located on the city's right-of-way.

15 It is the policy of the city to encourage new tree planting on public and private property and to cultivate a flourishing urban forest.

16
17 11.12.020 Definitions.

18 A. For purposes of this chapter the following words and phrases shall have the meanings respectively ascribed to them by this section, unless it is obvious from the context that another meaning is intended:

19 1. "Certified Arborist" means an arborist certified by the International Society of Arboriculture.

20 2. "Community Forest Management Plan" means a document that contains goals and policies that will guide the city in its actions and decisions affecting trees within the city limits.

21 3. "Hazardous Tree" means any tree or tree condition which represents a danger to persons, property or other healthy trees.

22 4. "Heritage Tree" means any tree existing within the city limits which has been so designated by resolution by the city council. Heritage trees shall be trees with notable historic interest or trees of an unusual species or size.

23 5. "Maintain" or "maintenance" means the entire care of trees including ground preparation, fertilizing, mulching, trimming and watering.

24 6. "Plant" means an herb that lacks a permanent woody stem.

25 7. "Shrub" means a low woody plant having several stems and a trunk less than three inches in diameter at a height less than four and half feet above the ground.

1 8. "Tree" means any perennial woody plant having a trunk at least
2 three inches in diameter at a height four and one-half feet above the ground. This
3 definition shall include any tree planted by or required to be planted by the city which will
4 attain the stated size and maturity.

5 9. "Tree Service Life" means the number of years that the tree provides
6 the most benefits with the least amount of costs.

7 10. "Valid Tree Site" means a tree site in that area of the public right of
8 way where a tree can be planted. The requirement shall be one tree per residence or
9 forty feet (40') between trees for a large tree site, thirty feet (30') for a medium tree site
10 and twenty feet (20') for a small tree site. All tree sites beneath a high voltage electrical
11 line shall be considered a small tree site. Tree sites shall be planted with a large, medium
12 or small tree listed and approved by the city.

13 11.12.030 Jurisdiction of public works department.

14 A. The city manager, acting through the public works director or his/her
15 designee, shall exercise jurisdiction and control over the planting, maintenance, removal
16 and replacement of trees, shrubs or plants in all streets, sidewalks, medians or other
17 public rights of way of the city, and shall have such power, authority, jurisdiction and
18 duties as are prescribed in this chapter.

19 11.12.040 Master tree list.

20 A. The city manager, acting through the public works director or his/her
21 designee, shall develop and maintain a master tree list, which shall be adopted by
22 resolution of the city council and shall be on file in the office of the city clerk. These
23 documents shall specify the species of trees suitable and desirable for planting in certain
24 areas in order to establish a wide ranging urban forest.

25 11.12.050 Street tree planting and maintenance procedures.

26 A. The city manager, acting through the public works director or his/her
27 designee, shall develop and implement policies and standards for street tree planting
28 and maintenance and will incorporate these policies and standards into the city's
community forest management plan, which shall be adopted by resolution of the city
council.

29 11.12.060 Approval prior to planting.

30 A. No tree, shrub or plant shall be planted in any street, sidewalk, median or
31 other public right of way of the city until the city manager, acting through the public works
32 director or his/her designee, first approves the kind and variety, designates the location
therefor and grants the permit for planting.

33 11.12.070 Street tree maintenance.

34 A. It shall be the obligation of the city manager, acting through the public
35 works director or his/her designee, to assign appropriate scheduled tree, shrub or plant
36 maintenance, including but not limited to pruning, fertilization, irrigation and pest control
37 based on age, species, size and location to assure the proper maintenance of all street
38 trees, shrubs or plants.

39 11.12.080 Protection of trees.

40 A. No person shall remove, trim, prune or cut any street tree, shrub or plant
41 now or hereafter growing in any street, sidewalk, median or other public right of way of

1 the city, unless such work conforms with all city regulations and standards. These
2 regulations and standards are kept on file in the office of the public works department.

3 B. No person shall remove, injure or misuse any guard or device placed to
4 protect any tree, shrub or plant now or hereafter growing in any street, sidewalk, median
5 or other public right of way of the city.

6 C. No person shall hitch or fasten any kind of animal to any tree, shrub or
7 plant now or hereafter growing in any street, sidewalk, median or other public right of
8 way of the city; nor shall any person place a post for hitching of animals within five feet of
9 any tree, shrub or plant now or hereafter growing in any street, sidewalk, median or other
10 public right of way of the city.

11 D. No person shall willfully injure, disfigure or intentionally destroy by any
12 means any tree, shrub or plant growing in any street, sidewalk, median or other public
13 right of way of the city.

14 E. No person shall:

15 1. Construct a concrete, asphalt, brick or gravel sidewalk, or otherwise
16 fill up the ground area near any tree, shrub or plant growing in any street, sidewalk,
17 median or other public right of way of the city, to shut off air, light or water from the roots,
18 except under written authority from the city manager, acting through the public works
19 director or his/her designee.

20 2. Place building material, equipment or other substances likely to
21 cause injury to a tree near any tree, shrub or plant growing in any street, sidewalk,
22 median or other public right of way of the city, which might cause injury to the tree.

23 3. Post any sign on any tree that is not scheduled for removal as
24 described in section 11.12.090 of this chapter, tree-stake or guard, or fasten any electric
25 wire, insulator or any other device for holding electric, telephone, television or conductor
26 wires to any tree, shrub or plant now or hereafter growing in any street, sidewalk, median
27 or other public right of way of the city.

28 F. No person shall interfere, or cause any other person to interfere, with
employees of the city, or contractors employed by the city, who are engaged in planting,
maintaining, treating, removing or replacing any street tree, shrub or plant or removing or
replacing any material which is likely to cause injury to the tree, shrub or plant.

G. No person shall plant any street tree, shrub or plant except according to
policies, regulations and specifications established pursuant to this chapter or any
currently applicable ordinances or code sections.

11.12.090 Permits required for tree removal.

A. Policy. The city values trees as an important part of the environment and
shall strive to preserve them whenever possible and feasible. When reviewing requests
for a street tree removal permit, the city shall discourage removing desirable trees, and
shall consider approving removal of desirable trees only as a last resort alternative for
the applicant.

B. Permits for Removal. Except as otherwise provided in this chapter,
removing any street tree in the city shall require a permit issued by the city manager,
acting through the public works director or his/her designee

C. Review of the application to remove a tree shall proceed as follows:

1. A city arborist shall inspect the property and recommend approving
or denying the application in a written report submitted to the city manager, acting
through the public works director or his/her designee.

2. The city arborist may authorize a tree's removal after finding either of
the following circumstances:

1 a. The tree is a hazard to life or property, and removing it is the
only feasible way to eliminate the hazard;
2 b. The tree is dead, dying, diseased or damaged beyond
reclamation.

3 3. If the city arborist does not find either of the above circumstances for
4 removing a tree, a priority rating depending on the following factors can be considered
for a tree removal.

- 5 a. Service life;
6 b. Damage to utilities and/or sewer lines;
7 c. Damage to hardscape;
8 d. Conformity of the existing tree to recommended species list.

9 The highest priority removal shall be given to trees meeting all four
factors. The second priority will be given to trees meeting three factors, etc.

10 4. If the city arborist has recommended denying the application, the
11 applicant may request the Parks and Recreation Commission to review the arborist's
decision.

12 5. If the Parks and Recreation Commission concurs with the city arborist's
13 recommendation to deny the application, the applicant may request the city council to
review the matter for final action.

14 D. All tree removal, whether by city or applicant, shall include the removal of
the stump and the removal of all stump grinding chips and the backfilling of the hole
created by stump removal with a good quality top soil suitable for the replanting of a
replacement tree.

15 E. Notification of Tree Removal.

16 1. The city shall post a letter of notification and a non-removable
marking upon the subject tree a minimum of 30 days prior to its removal. The letter will
be posted in a prominent location, visible from a public street and will include, but not be
limited to the following information:

- 17 a. The location of the tree
18 b. The reason for the tree's removal;
19 c. The date of the scheduled removal;
20 d. The species of tree to be replanted;
21 e. The size of the tree to be replanted;
22 f. The date by which an appeal must be made to the Parks and
Recreation Commission.

23 g. A description of the appeal process.

24 2. The letter of notification shall also be given to the owner of the
property where the tree is scheduled be removed, and to the adjacent property owners,
as well as to the property owners directly opposite and to the owners of the properties
adjacent to the opposite property.

25 3. The city manager, acting through the public works director or his/her
designee, may waive notification requirements for a tree removal in either of the following
circumstances:

26 a. When the city manager, acting through the public works
director or his/her designee determines that a tree's condition threatens public health,
safety or welfare;

27 b. When local, state or federal authorities have declared a state
of emergency and a tree's condition threatens public health, safety or welfare.

28 F. No heritage tree shall be removed except if it is determined by a city
arborist that such a tree is creating a hazard, or by formal appeals process.

1 11.12.100 Tree replacement.

2 A. It shall be the goal of the city to replace all removed street trees within 45
3 days of their removal if the tree site meets the minimum specifications for a valid tree
4 site.

5 B. All removed trees shall be replaced with a tree of the same species as
6 removed, except where the removed species does not conform to the recommended
7 species approved by the city, or the conditions existing at the valid site. No tree shall be
8 planted into the public right of way that does not comply with the uniform street planting
9 map as described in section 11.12.120 of this chapter.

10 C. Trees that are touching or nearly touching high-voltage utility lines shall be
11 replaced with a recommended species.

12 D. All tree replanting shall be with a minimum 15-gallon container tree, except
13 when a person agrees to pay the difference in cost of a larger replacement tree size and
14 any additional costs associated with the planting of a larger tree.

15 E. A person may request replacement of a street tree species specified in the
16 uniform street planting map with another species only when there is a medical allergy
17 certified by a medical doctor. The replacement tree will be approved by the city arborist
18 and the city manager, acting through the public works director or his/her designee. All
19 trees removed for this reason must be replaced with a tree listed as an approved species
20 by the city.

21 11.12.110 Overhanging trees.

22 A. The owner or his/her agent of every lot or parcel of land in the city upon
23 which any trees, shrubs or plants are now or may be hereafter standing shall trim, or
24 cause to be trimmed, the branches thereof so that the same shall not obstruct the
25 adequate passage of light from any street light located in any street, sidewalk, median or
26 other public right of way of the city and such owner or his/her agent shall trim all
27 branches of any trees, shrubs or plants which overhang any street, sidewalk, median or
28 other public right of way of the city so that there shall be a clear height of eight feet
above the surface of the street, sidewalk, median or other public right of way of the city
unobstructed by branches; and such owner or his/her agent shall remove from such
trees, shrubs or plants all dead, decayed or broken limbs or branches that overhang
such street, sidewalk, median or other public right of way of the city, and when any such
trees, shrubs or plants are dead, such owner or his/her agent shall remove the same so
that they shall not fall in the street, sidewalk, median or other public right of way of the
city.

21 11.12.120 Uniform street planting map.

22 A. Upon the recommendation of the Parks and Recreation Commission, the
23 city council shall adopt a uniform street tree planting map that will depict a uniform
24 method of tree plantings on city streets. The city manager, acting through the public
25 works director or his/her designee, shall have copies of this map made and the same
26 shall be kept on file in the office of the city clerk and may be obtained by the public.

25 11.12.130 Community forest management plan.

26 A. Upon the recommendation of the Parks and Recreation Commission, the
27 city council shall adopt a community forest management plan that provides direction to
28 develop goals and policies that will guide the city to manage tree-related issues in a
proactive manner. The plan will address trees on public property and will discuss
planting, removal, replacement, maintenance and the preservation of trees growing on

1 any public property or in any street, sidewalk, median or other public right of way of the
city.

2 B. When the management plan in its original or modified form is adopted by
3 the city council, it shall become the tree planting plan for public streets of the city and
4 shall be strictly adhered to in all future street planting improvement projects and in the
5 removal, replacement and maintenance of trees, shrubs or plants in public streets in the
6 city. The management plan for the entire city does not need to be adopted by the city
7 council at one time. Instead, council may adopt the community forest management plan
8 for different portions of the city within a reasonable length of time after the completed
9 plan for any particular portion of the city has been submitted to the city council for
adoption.

7 C. The city manager, acting through the public works director or his/her
8 designee, shall have copies of this plan made and the same shall be kept on file in the
9 office of the city clerk and may be obtained by the public.

10 11.12.140 Heritage trees.

11 A. The city council recognizes the important role trees have played in the
12 history and development of Carlsbad and recognizes that a wide variety of trees can
13 grow in its unique and temperate climate. The city may officially designate as heritage
trees those trees in the community which have significant historical or arboricultural
interest. It is the policy of the city council that all designated heritage trees that are on
public streets shall be protected.

14 11.12.150 Appeals.

15 A. Any person may request a formal appeal to the Parks and Recreation
Commission within thirty (30) calendar days of the posting of a city tree for:

- 16 1. the location or species of any street tree selected by the city for
planting at a specific location; and/or
- 17 2. the city arborist's recommendation for the removal of any non-
hazardous street tree.

18 B. Any person may request a formal appeal to the Parks and Recreation
Commission for:

- 19 1. the removal of a street tree which is not dead, dying or diseased;
and/or
- 20 2. the removal of a street tree that is listed as a heritage tree; and/or
- 21 3. the removal of a street tree that is causing damage to hardscape or
for the cause of routing underground or overhead utilities.

22 C. If the Parks and Recreation Commission denies an applicant's appeal, the
applicant may request a final appeal to the city council within ten (10) calendar days of
23 the commission's decision.

24 D. Fees for an appeal shall be determined by resolution of the city council.

25 E. Appeals will be made by submitting a tree appeal form available from the
office of the public works department.

26 11.12.160 Violation.

27 A. Any violation of this chapter is a misdemeanor subject to the provisions of
Chapter 1, Section 1.08.010 of this code.

28 B. In addition to any criminal penalty, the city may, pursuant to Government
Code section 36901, impose a civil penalty for any violation of this chapter in an amount
not to exceed one thousand dollars.

1 C. Nothing in this section shall prevent the city from bringing a civil action for
2 monetary damages as an alternative to a criminal or civil penalty."

3 EFFECTIVE DATE: This ordinance shall be effective thirty days after its adoption,
4 and the City Clerk shall certify the adoption of this ordinance and cause it to be published
5 at least once in a newspaper of general circulation in the City of Carlsbad within fifteen
6 days after its adoption.

7 INTRODUCED AND FIRST READ at a regular meeting of the Carlsbad City
8 Council on the 13th day of June, 2000, and thereafter

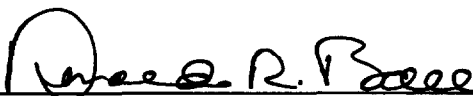
9 PASSED AND ADOPTED at a regular meeting of the City Council of the City of
10 Carlsbad on the 20th day of June, 2000, by the following vote, to
11 wit:

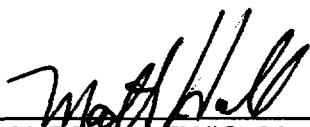
12
13 AYES: Council Members Hall, Nygaard and Kulchin

14 NOES: None

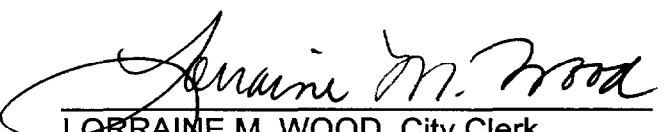
15 ABSENT: Council Members Lewis and Finnila

16 APPROVED AS TO FORM AND LEGALITY

17 
18 RONALD R. BALL, City Attorney
19 6/21/2000.

20 
21 CLAUDE A. LEWIS, Mayor
22 Matt Hall, Mayor Pro Tem

23 ATTEST:

24 
25 LORRAINE M. WOOD, City Clerk
26 (SEAL)
27
28